

Title XI Initiatives

The nineteen provisions of Title XI of the FY 1993 National Defense Authorization Act (also called the Army National Guard Combat Readiness Reform Act of 1992) are in the third year of implementation. Several major Army initiatives respond directly to Title XI requirements. Among these initiatives are the establishment of fifteen Enhanced Readiness Brigades to replace the former round-out brigades. The new brigades are now the nation's principal reserve ground combat maneuver force. Other initiatives include training associations with Active component counterpart units, a non-deployable personnel account, readiness reporting changes, systems and equipment compatibility requirements, improved inspections and increased use of simulators.

Title XI also mandated the addition of 5,000 Active component soldiers to support Reserve component training. This initiative was sixty percent completed in FY 1995 and will be completed by FY 1997. Many Active component members will serve as resident full-time advisors in high-priority units. Others will form the new Reserve component training support structure (Ground Forces Readiness Enhancements) providing turn-key training during both weekend and annual training.

Reserve Officer Personnel Management Act (ROPMA)

ROPMA, enacted in the Fiscal Year 1995 Defense Authorization Act, becomes effective on October 1, 1996. ROPMA constitutes the **first** comprehensive overhaul of Reserve officer personnel management statutes since the Reserve Officer Personnel Management Act of 1954. ROPMA involves over 200 changes to existing law and will affect approximately 250,000 officers not on the active duty list.

ROPMA was developed to parallel the Defense Officer Personnel Management Act (DOPMA), which was enacted in 1980 to improve management of Active force officers. ROPMA revises the laws governing Reserve officer appointments, promotions, separations, and transfers to the Retired Reserve. It is designed to provide the framework for Reserve officer management before, during and after periods of mobilization. It provides the flexibility necessary in the management of the Reserve officer force while providing visible career opportunities to individuals.

Specific restructuring effects of ROPMA include:

- Revision of the structure of Title 10 United States Code to consolidate the provisions relating to Reserve components.
- Establishment of a Reserve Active Status List (RASL) for each service which lists all officers by relative seniority.

- Officers remain on RASL for 24 months after recall or mobilization.
- Officers date of rank is not adjusted upon recall or mobilization.
- Provision for a uniform law for awarding constructive credit for the appointment of officers.
- Provision for uniform law for promotion procedures across Services.
- Uniform minimum and maximum years service required for each grade.
- Best qualified as the promotion **standard** versus fully qualified.
- Allows promotion eligible to compete within specific competitive categories which Services designate.
- Allows the Naval Reserve and Marine Corps **Reserve** to use their “running mate” system.
- Allows **officers** to delay promotion effective date for up to three years having been selected.
- Provides for uniform mandatory separation and retirement points based on years of service and age.
- Provides for the selective retention of officers beyond these points based on Service needs.
- Provides for selective early removal of officers based on Service needs.

The Department established a ROPMA implementation working group consisting of representatives from the Office

of the Secretary of Defense and each of the Services. The working group met regularly to develop policy guidance for inclusion in existing DoD Directives and Instructions in preparation for implementation of the ROPMA personnel policy provisions on October 1, 1996. This guidance will then provide the basis for revising appropriate Service regulations.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

USERRA was signed into law by the President on October 13, 1994 and became effective on December 12, 1994. USERRA clarifies and strengthens the employment and reemployment rights, obligations, and responsibilities of members and former members of the uniformed services. USERRA applies to individuals returning to civilian employment after military duty or training, as well as individuals applying for initial employment. The new law, which codifies over 50 years of case law, continues to ensure protection against discrimination, retention in employment promotions, or other benefits of employment. It supports the premise that upon completion of a period **military** service, returning service members are to be reinstated to their civilian jobs without loss of seniority, status or pay.

DoD Instruction 1205.12, issued April 4, 1996, establishes procedures to ensure, to the greatest extent possible, that service members, former service members and applicants for service are provided all the rights and benefits established in law. To ensure Reserve component members are aware of their rights, benefits, and obligations under the law, the military services are required to conduct a USERRA briefing at least annually for Selected Reserve members or when a Reserve

component member is involuntarily called to active duty. The services are also required to establish a point of contact that Guard or Reserve members may contact for assistance, and a point of contact that an employers may contact for information or possible assistance on USERRA related issues.

Anyone desiring additional information should get in touch with the point of contact established by the service.

Under USERRA, an individual is required to give advance notice, either verbally or in writing, when he or she will be absent from a position of civilian employment to perform military service. One of the few ways an individual can lose his or her right to reemployment is by not providing advance notice. Because of the criticality of complying with this requirement, the Department of Defense strongly recommends that service members always give advance notice in writing, thus documenting that this requirement was fulfilled.

While not intended to be all inclusive, some of the major features of USERRA are described below:

- . Scope of Coverage: USERRA provides protection to anyone absent from a position of civilian employment because of uniformed service if: (1) advance written or verbal notice was given to the civilian employer; (2) the cumulative length of absence(s) does not exceed 5 years; (3) the person's character of service was not adverse; and (4) the individual reports to, or submits an application for reemployment, within a specified period based on the length of uniformed service.
- . When reemployment is not required: (1) The civilian employment was for a brief, **non-recurrent** period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period of time; (2) the employer's circumstances have so changed as to make reemployment impossible or unreasonable, or reemployment imposes an undue hardship on the **employer**; (3) the reemployment of a individual imposes an undue hardship on the **employer**; (4) the service member received a dishonorable or bad conduct discharge, or was separated under other than honorable conditions; or (5) an officer was dismissed or dropped from the rolls of any armed force.
- . Reemployment Position: Generally, service members have the right to return to their job in the position they would have attained if not absent because of military service. The exact position to which they are entitled upon return is determined by the length of absence from the civilian employer to perform military service.
- . Benefits: Service members are entitled to seniority and all the benefits of seniority with their civilian employer as if continuously employed. They are also entitled to any non seniority benefits that are generally provided by the employer to other employees having similar seniority, status, and pay who are on furlough or leave of absence. Individuals may be required to pay the employees' cost, if any, of any funded benefits continued, but only to the same extent other employees on furlough or leave of absence are required to pay those costs.

- Health Care: Service members may elect to continue the health care coverage provided by their civilian employer for up to eighteen months. If the period of coverage exceeds 30 days, the employer can require the employee to pay 102% of the insurance costs. For periods of 30 days or less, the employer may require the employee to pay only the employee's share of the coverage, if any.
- Employee pension benefit plans: Employees are to be treated as if no absence in employment occurred and may make up contributions to an employee pension benefit plan. Employers are also required to fund any obligation attributable to the employer of the employee's benefit pension plan.
- Claims Assistance: A person experiencing problems with civilian employment or reemployment may contact the National Committee for Employer Support for the Guard and Reserve at 1-800-336-4590 for assistance. A individual protected by USERRA may also file a complaint with the Assistant Secretary for Veterans' Employment and Training at the Department of Labor.

Accessibility

The Fiscal Year 1995 National Defense Authorization Act also increased the length of time under section 12304 of Title 10 U.S.C. for which the President may order members of the Selected Reserve to active duty without their consent. Formerly under a Presidential Selected Reserve Call-Up (PSRC), Reservists could be called to active duty for 90 days with a possible extension of 90 days for operational

missions. Under the new authority the President can order, up to 200,000 Selected Reservists to active duty for 270 days. This new authority will both improve accessibility and reduce some of the previous planning uncertainties associated with mobilizing Reserve forces for shorter periods.

Quality of Life and Mobilization Readiness

Finally, the Fiscal Year 1996 National Defense Authorization Act, signed into law by the President on February 10, 1996, includes three legislative initiatives which will enhance the quality of life for Reservists and their mobilization readiness. These initiatives are:

- a Mobilization Income Insurance Program for members of the Ready Reserve who wish to participate. The program provides insurance protection of \$1,000 per month in increments of \$500 up to \$5,000 against loss of income as a result of an involuntary mobilization. This program should help Reservists who are involuntarily called to active duty avoid serious income loss due to their military income being less than civilian income (including Reserve income). Participation is voluntary and financed by premiums paid by participants.
- a Dental Insurance Program for members of the Selected Reserve to begin in Fiscal Year 1997. The program will provide voluntary enrollment with premium sharing between the Department of Defense and the member. The member contribution will not exceed \$25.00. The benefit will provide basic dental care and treatment,

including diagnostic services, preventative services, basic restorative services, and emergency oral examinations.

- . medical and dental care to members of early deploying units of the Army Selected Reserve. Members of the Selected Reserve of the Army assigned to units scheduled for deployment within 75 days after mobilization, will, at no cost to the member, receive an annual medical and dental screening and dental care required to ensure that the member meets the dental standards required for deployment, In addition members who are over 40 years of age will receive a full physical examination at least every two years.